IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 29.03.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.4021 of 2007
& M.P.No.1 of 2007

Sivas Twins Owner Association,
rep. by its Secretary regn.No.50/06,
Mr.K/Selvam, S/o S.K.Subramanian,
No.77/1 & 77/2, New No.34,
Gill Nagar, 3rd Street,
Choolaimedu, Chennai-600 094. .. Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai-3.

2.The Assistant Engineer,
Division No.76, Zone V,
Corporation of Chennai,
Chennai-600 094. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records of the first respondent relating to the notice issued under Section 256(3) of the Chennai City Municipal Corporation Act, 1919 vide Nos.3625, 3626, 3627, 3628, 3629, 3630, 3631, 3632 dated 4.1.2007 confirming the Provisional Notice issued under Section 256(1) & (2) of the Chennai City Municipal Corporation Act 1919 vide No.4057, 4058, 4059, 4060, 4061, 4062, 942, 4064 dated 18.12.2006 respectively, quash the same and consequently forbear the respondent from initiating action of demolition in respect of the flats owned by the members of the association as listed in the Annexure hereunder at No.77, New No.34, Gill Nagar, 3rd Street, Choolaimedu, Chennai-600 094.

For Petitioner : Mr.R.Kannan

For Respondents 1 & 2 : Mr.Mohamed Gouse

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ORDER

(Order of the Court was delivered by P. SATHASIVAM, J.)

Sivas Twins Owner Association through its Secretary filed the above writ petition challenging the notice issued under Section 256(3) of the Chennai City Municipal Corporation Act, 1919 (hereinafter referred to as "the Act"), confirming the provisional notice issued under Section 256(1) and (2) of the Act on various grounds.

2. Pursuant to our direction, the Assistant Engineer, Division-76, Unit 15, Zone V of the Corporation of Chennai, has filed a report narrating the nature of construction and deviations from the sanctioned plan.

3. The learned counsel for the petitioner, by pointing out that even the deviation referred to in the report are minimal, the petitioner may be permitted to agitate the same before the Standing Committee, which is an Appellate Authority.

4. Considering the said request and of the fact that the impugned notice was issued on 04.01.2007, as per the Rules, an appeal has to be filed within 30 days and also of the fact that the petitioner has filed writ petition before this Court on 03.02.2007, we are of the view that ends of justice would be met by permitting the petitioner to file an appeal before the Standing Committee of the Corporation of Chennai within a period of two weeks from the date of receipt of a copy of this order. If ay such appeal is filed within the time stipulated, the said authority is directed to consider and dispose of the same on merits and in accordance with law .

5.The writ petition is disposed of on the above terms. No costs. Till final decision being taken by the Appellate Authority, the respondents are directed not to demolish the building in question pursuant to the impugned notice.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai-3.

2.The Assistant Engineer,
Division No.76, Zone V,
Corporation of Chennai,
Chennai-600 094.

+ 1 cc to Mr. Mohamed Gouse, Advocate, SR No.20069

+ 1 cc to Mr. R. Kannan, Advocate, SR No.20036

W.P.No.4021 of 2007

NSM(CO)
SR/2.4.2007

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